

FOREIGN CLAIMS SETTLEMENT COMMISSION  
OF THE UNITED STATES  
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

F. MELVIN WHITELEY  
and  
PHYLLIS WHITELEY

Claim No. CU -6122

Decision No. CU **3377**

Under the International Claims Settlement  
Act of 1949, as amended

Represented by Cia. Azucarera Vertientes-Camaguey de Cuba

Counsel for Cia. Azucarera Vertientes-Camaguey de Cuba  
Shapiro, Fried and Weil  
By Herbert S. Shapiro, Esq.

PROPOSED DECISION

Claimants, F. MELVIN WHITELEY and PHYLLIS WHITELEY, who owned stock interests in the Cia. Azucarera Vertientes-Camaguey de Cuba, assert a claim under Title V of the International Claims Settlement Act of 1949, as amended, against the Government of Cuba because of its nationalization of said Company.

In our decision entitled the Claim of Ruth Anna Haskew (Claim No. CU-0849 which we incorporate herein by reference), we held that the properties owned by the Company were nationalized or otherwise taken by the Government of Cuba on August 6, 1960, and that this type of claim is compensable to an American national under the facts and conditions set forth therein. We need not again detail here the reasons or the method used in determining the value per share of \$46.3946.

On the basis of evidence in the record in the instant case, the Commission finds that these claimants come within the terms of the Haskew decision; that they were American nationals at the requisite times; that they have been the joint owners of 1,000 shares of stock in the Cia. Azucarera Vertientes-Camaguey de Cuba since prior to August 6, 1960; and that they jointly suffered a loss thereon in the amount of \$46,394.60 within the meaning of Title V of the Act.

Section 504 of the Act provides, as to ownership of claims, that

(a) A claim shall not be considered under section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

Section 507 of the Act provides, as to assignment of claims, that

(b) The amount determined to be due on any claim of an assignee who acquires the same by purchase shall not exceed (or, in the case of any such acquisition subsequent to the date of the determination, shall not be deemed to have exceeded) the amount of the actual consideration paid by such assignee, or in case of successive assignments of a claim by any assignee.

On the basis of evidence of record, the Commission also finds that these claimants acquired another 1,000 shares of Vertientes stock by purchase of 500 on November 10, 1961 and 500 on June 6, 1962 for consideration of \$780.00 and \$717.50, respectively.

Under the provisions of Section 504(a) of the Act, a claimant is required to establish that the claim for any loss has been continuously owned by a national or nationals of the United States from the date of loss to the date of filing with the Commission. The loss occurred on August 6, 1960. In similar cases, claimants have been unable to obtain information or evidence to establish the nationality of the owner of the securities on the date of loss, and to establish continuous United States ownership of the securities until the date on which claimant acquired them.

Evidence of record before the Commission discloses that securities of the type subject of this claim were almost entirely owned and traded

by persons or firms having addresses in the United States. The Commission has considered whether an inference may be justified that the claimed securities were continuously owned by a national or nationals of the United States from the date of loss to the date on which purchased by the claimant, and, in the absence of evidence to the contrary, has concluded that the securities were continuously so owned. (See Claim of the Executors of the Estate of Julius S. Wikler, Deceased, Claim No. CU-2571.)

The Commission finds that claimants, upon their purchase of the last-mentioned 1,000 shares, succeeded to the loss sustained by the assignor of the claimed securities, and concludes that they succeeded to and suffered a loss in the total amount of \$1,497.50 (the price they paid) as a result of the nationalization of the company on August 6, 1960.

The Commission has decided that in certification of losses on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement. (See Claim of Lisle Corporation, Claim No. CU-0644.)

The Commission concludes, however, that the amount of loss sustained by claimants herein shall be increased by interest thereon at the rate of 6% per annum from August 6, 1960 on \$46,394.60, but from November 10, 1961 on \$780.00, and from June 6, 1962 on \$717.50, the dates on which claimants acquired this portion of the claim, to the date on which provisions are made for the settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that F. MELVIN WHITELEY and PHYLLIS WHITELEY jointly suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Forty-seven Thousand Eight Hundred Ninety-two Dollars and Ten Cents (\$47,892.10) with interest at 6% per annum from August 6, 1960 on \$46,394.60, from November 10, 1961 on \$780.00, and from June 6, 1962 on \$717.50, to the date of settlement.

Dated at Washington, D. C.,  
and entered as the Proposed  
Decision of the Commission

**DEC 11 1968**

*Leonard v. B. Sutton*  
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Leonard v. B. Sutton, Chairman

*Theodore Jaffe*  
\_\_\_\_\_  
Theodore Jaffe, Commissioner

*Sidney Freidberg*  
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Sidney Freidberg, Commissioner

NOTICE TO TREASURY: The above-referenced securities may not have been submitted to the Commission or if submitted, may have been returned; accordingly, no payment should be made until claimants establish retention of the securities for the loss here certified.

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)